

**Project Funding Agreement  
Between  
Energy Trust of Oregon, Inc.,  
and the City of Tualatin**

Contract #4108

This Project Funding Agreement ("Agreement") is executed by Energy Trust of Oregon, Inc. ("Energy Trust") and the City of Tualatin, an Oregon municipal corporation ("the City"). Energy Trust and the City are organized under the laws of the State of Oregon. This Agreement may refer to Energy Trust and the City individually as "Party" and together as "Parties."

**RECITALS**

WHEREAS, the City will implement the City Services Center municipal micro-hydropower generation project ("Project," as further defined in **Section 2** below), located at the City Services Center in Tualatin, Oregon. The Project will harness excess energy from an existing pressure reduction valve (PRV) to generate clean electricity.

WHEREAS, the Project has capacity of 56 kilowatts ("kW"), and an expected average output of 22 kW, creating approximately 171 megawatt-hours ("MWh") of renewable electricity per year.

WHEREAS, the City will own and operate the Project from the time the Project is installed for a period of at least twenty (20) years.

WHEREAS, the City will deliver the net output generated by the Project to Portland General Electric ("PGE") in accordance with a net metering agreement executed by and between the City and PGE.

WHEREAS, over a period of twenty (20) years, 100 percent of the Renewable Energy Certificates ("RECs," as defined in **Section 2**, below) generated by the Project will remain with the City and the City will maintain ownership of RECs.

WHEREAS, Energy Trust, a non-profit corporation created to invest "public purpose funding" in, among other things, the above-market costs of new renewable energy resources, has determined that the Project is a new renewable energy resource and funding the above market costs of the Project is consistent with Energy Trust's purposes.

NOW THEREFORE, the Parties enter into this Agreement.

**AGREEMENT**

**1. Term**

This Agreement is effective as of June 1, 2025, ("Effective Date") and will continue for a period of twenty (20) years from the Commercial Operation Date unless terminated earlier pursuant to this Agreement.

**2. Definitions**

Capitalized terms in this Agreement shall have the meanings defined in the Recitals above and as set forth in this **Section 2** below. Certain other capitalized terms have the meanings as specified in the Recitals and in other provisions of this Agreement:

**A.** “Commercial Operation” means (i) the Project has been installed and tested and is operating as intended, and (ii) the Project is in sustained production and delivery of energy to PGE consistent with this Agreement, each as confirmed by an Energy Trust verification review.

**B.** “Commercial Operation Date” means the date immediately following the date on which the Parties have verified Commercial Operation in writing, and, unless the Parties agree otherwise in a signed, written amendment in accordance with **Section 16.C** of this Agreement, no later than December 31, 2025.

**C.** “Project” means the new renewable energy generation project as described in the attached and incorporated **Exhibit A** and designed to create new electricity generation of a projected 171 MWh per year.

**D.** “Project Site” means the property on which the Project is located.

**E.** “Project Year” means each twelve (12) full calendar month period following the Parties’ confirmed Commercial Operation Date.

**F.** “Renewable Energy Certificate” or “REC” represents the property rights to the environmental, social and other non-power attributes of the Project’s renewable electricity generation. RECs are the accepted legal instrument through which renewable energy generation and use claims are substantiated in the U.S. renewable energy market. RECs are measured in terms of their energy value and each REC equals one (1) MWh of grid-tied renewable energy production.

### **3. Installation of the Project**

**A.** The City will purchase and install the Project and will ensure that the Project reaches Commercial Operation by the Commercial Operation Date deadline set forth in **Section 2.B**.

**B.** The City will be responsible for all contractors, all subcontractors, financing and any and all items relating to the building, operations and maintaining of the Project.

**C.** The City will obtain and maintain all government approvals, permits, and licenses, and enter into all other agreements necessary to construct, operate, and maintain the Project. Upon Energy Trust’s written request, the City will provide Energy Trust with copies of such approvals and agreements, including any amendments.

### **4. Verification**

The City shall allow Energy Trust and its representatives access to the Project and Project Site to perform any required verification contemplated under the terms of this

Agreement, including a verification to determine Commercial Operation. Energy Trust's verification review shall not be deemed a code inspection, and no warranty is implied.

## **5. Incentive Payment Schedule and Conditions Precedent**

The maximum incentive amount that Energy Trust may pay the City under this Agreement is \$192,000 (the "Maximum Funding Commitment"). This incentive amount is calculated based on projections of project costs and expectations that the Project should operate at certain levels of efficiency and generate certain amounts of energy depending on actual operating conditions. Incentive payment and repayment obligations are based on the extent to which the Project's actual performance is reasonably consistent with these projections.

Subject to the terms and conditions of this Agreement, Energy Trust will pay the City the Maximum Funding Commitment amount of \$192,000 in two installments as described in this **Section 5** (the "Incentive"). Following Energy Trust's verification of the submitted documentation as described in this **Section 5.A**, Energy Trust will remit the first incentive installment to the City. Failure to provide any required documentation may result in delay or withholding of payment. Energy Trust shall have no obligation to make any payment under this Agreement if the Commercial Operation Date is not achieved by the deadline indicated in **Section 2.B**.

**A.** The first incentive installment in the amount of \$100,000 will be made upon the City's satisfaction of each of the following conditions precedent:

- The City meets all of the installation requirements as set forth in this Agreement and all requirements for Commercial Operation by the deadline indicated in **Section 2.B**;
- The Parties verify the Commercial Operation Date in writing;
- The City provides Energy Trust with a properly itemized summary of total costs related to the purchase and installation of the Project, along with any supporting documentation for such costs as may be requested by Energy Trust.
- The City provides Energy Trust with copies of all executed agreements regarding the Project interconnection, net-metering and/or power purchase;
- The City provides Energy Trust with a copy of the Permission to Operate notification from the electric utility; and
- The City provides Energy Trust with a completed and signed IRS Form W-9.

**B.** After a period of one (1) year following the Commercial Operation Date during the Term in which (i) the Project generates at least 86 MWh, and (ii) the City submits a properly itemized invoice that contains verification of the Project's generation for the one-year period, Energy Trust will make an additional incentive payment to the City in the amount of \$92,000.

C. Energy Trust will make the incentive installment payments as described above not later than thirty (30) days after all required conditions to payment as set out in this **Section 5** have been satisfied. Energy Trust will remit payment to:

City of Tualatin  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062

D. **Inflation Reduction Act (IRA) Tax Credit** – To help fund the Project, the City shall apply for an IRA direct pay tax credit (“Tax Credit”) of \$255,118 that is anticipated to be paid to the City by the Internal Revenue Service in 2026, and the City will keep Energy Trust apprised in writing as to the outcome. If this Tax Credit is not paid in a timely manner, Energy Trust will conduct an above market cost calculation to determine an appropriate incentive amount to be paid in one lump sum so long as the project is still producing 86 MWh annually as expected pursuant to **Section 6.D.** below. This amount, if paid, will be considered part of the Maximum Funding Commitment and as such will be subject to the repayment provisions in **Section 7.**

6. **Operation and Maintenance**

A. The City shall install, own, operate, and maintain the Project equipment in good working order, such that it is capable of generating 171 MWh per Project Year.

B. The City shall deliver the Project’s electric output to PGE or its successor during the term of this Agreement.

C. The City shall submit to Energy Trust in writing the annual Project generation every year for the first ten (10) years after the Commercial Operation Date.

D. If the Project produces less than 75% of estimated generation, or 128 MWh each Project Year for two (2) consecutive Project Years, within the first ten (10) years of the Commercial Operation Date, without Energy Trust’s prior written consent to the City, then, unless **Section 16.F** applies, the City will be subject to the repayment requirements set forth in **Section 7.** As a condition to granting any prior consent, Energy Trust will require that the City provide Energy Trust with a date and plan, acceptable to Energy Trust, by and how the City will return the Project to full Commercial Operation and if the City does not meet such date, then the City will be subject to the repayment requirements set forth in **Section 7.**

E. If the City decides at any time during the term of this Agreement to sell the Project, then the City must notify Energy Trust prior to the sale so that the Parties can work together to arrange for continued operation of the Project at the Project Site. If a satisfactory agreement is not reached prior to sale, then the City will be subject to the repayment requirements of **Section 7**, below.

7. **Repayment of Energy Trust Incentive Funds**

If, after Energy Trust makes the Maximum Funding Commitment payment to the City under **Section 5**, the Project is (i) sold, assigned or transferred to any entity without Energy Trust's prior consent, or (ii) produces less than 128 MWh per Project Year for two (2) consecutive Project Years, within the first ten (10) years of the Commercial Operation Date, without Energy Trust's prior consent, then, unless **Section 16.F** applies, Energy Trust may, in its sole discretion, require the City to immediately repay (in the form of a cashiers' check payable to Energy Trust of Oregon, Inc.) a portion of the incentive funds amount to Energy Trust, calculated as follows:

Repayment Amount = \$192,000 *multiplied by* the fraction of: [20 *minus* the number of anniversaries of the Commercial Operation Date on the date that condition (i) or (ii), above in this paragraph, is met] *divided by* 20

**8. The City's Representations and Warranties:**

- A.** The City owns the Project and is entitled to install, operate and maintain the Project at the Project Site for the duration of the term of this Agreement;
- B.** The execution, delivery and performance of this Agreement is within the City's powers, has been duly authorized by all necessary action and does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- C.** The City has legal authority to perform its obligations under this Agreement;
- D.** This Agreement, and any other document executed and delivered in accordance with the Agreement, constitutes a legally valid and binding obligation enforceable against the City in accordance with its terms, subject to any equitable defenses;
- E.** The City has sufficient financial stability to perform its legal obligations under this Agreement; and
- F.** There is not pending, or to its knowledge, threatened against the City, any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

**9. Treatment of Information**

The City shall clearly identify any submitted sensitive financial or proprietary information which it wishes Energy Trust to keep confidential as "Confidential Information." The City agrees that the following information will not be considered confidential and Energy Trust may include the following information in reports or other documentation submitted to the Energy Trust Board of Directors, the Oregon Public Utility Commission, the Oregon Department of Energy, Oregon Housing and Community Services, or the Oregon Legislature: (i) the City's name; (ii) a description and location of the Project; (iii) a description of any Energy Trust incentive payment(s) provided; (iv) the amount of any

Energy Trust incentives reserved or paid; and (v) the amount of the Project's energy generation and/or any resulting energy savings.

**10. Assignment of Agreement**

**A.** This Agreement is specific to the Parties and may not be assigned by the City to any other party without Energy Trust's express written consent.

**B.** Energy Trust may, at any time, assign its rights and obligations under this Agreement to a third party if requested to do so by the Oregon Public Utility Commission, and shall notify the City of such assignment.

**11. Insurance**

**A.** The City shall maintain the following minimum types and amounts of insurance during the term: (i) Workers' Compensation insurance in compliance with statutory requirements; (2) occurrence-based Commercial General Liability insurance of at least \$1,000,000 per occurrence and aggregate; and (3) All-Risk Property insurance covering the replacement value of the Project equipment.

**B.** The City shall ensure that it is in compliance with the insurance requirements set forth in this Agreement. Energy Trust may request proof of any of the required insurance coverages from the City at any time during the term, and the City shall promptly supply such proof.

**12. Renewable Energy Certificates**

The City agrees that it will not sell or otherwise transfer any RECs generated by the Project during the twenty (20) year term of this Agreement, as described in **Section 1**, to any other party. If, during such time, the City receives a request from PGE to transfer any of the RECs generated by the Project to PGE, the City will, within five (5) business days of its receipt of such request, notify Energy Trust.

**13. Self-Direction**

If the City Project site uses 8,760,000 kWh (one average megawatt) or more in electricity in a year, then the City may be eligible to "self-direct" the portion of the public purpose charge that Energy Trust receives. This means that any Energy Trust incentive payment(s) provided to the City under this Agreement will be subject to Energy Trust's self-direction policy, *Eligibility of Self-Direct Businesses for Energy Trust Incentives*. Specifically:

**A.** The City shall not apply for or receive any renewable self-direction credits for the Project; and

**B.** The City shall not use any renewable self-direction credits against the City's electric utility account(s) public purpose charge for the Project site for a minimum of 36 months from the Commercial Operation Date.

**C.** If the City begins self-directing the renewable portion of its public purpose charge at such site during such 36-month period, then the City must provide Energy Trust with not less than 60 days' advance notice, and (ii) the City shall promptly repay (in the form of a cashiers' check payable to Energy Trust of Oregon, Inc.) a pro-rated amount of the incentive funding up to a maximum of 50% of the incentive amount the City received from Energy Trust, determined by the following formula:

*0.5 times A times B*, where A is total amount of incentives paid; and B is the fraction [36 minus the number of months elapsed since Commercial Operation Date], *divided by 36*.

#### **14. Access and Evaluation**

**A.** The City authorizes Energy Trust to access the energy usage data for the Project's electric accounts. To request access to this data, Energy Trust will submit a request in writing, which the City will respond to in a timely manner. The City agrees to provide all other reasonable assistance to Energy Trust to obtain such information.

**B.** Energy Trust conducts ongoing evaluations of its programs and projects to determine effectiveness. During the term of this Agreement, the City will provide Energy Trust and its representatives with access to the Project and Project Site in order to: (i) read or check on the operation of the meter(s); (ii) inspect and review the Project during and after completion; and/or (iii) evaluate the operation of the Project. In addition, Energy Trust may contact the City from time to time via a telephone call, mail or e-mail to request meter information, and the City agrees to provide Energy Trust meter information in response.

#### **15. Termination**

**A.** Energy Trust may terminate this Agreement upon ten (10) days' written notice delivered to the City, in the event the City:

- (i) Commits a material breaches of this Agreement and fails to cure that breach within thirty (30) days of written notice;
- (ii) Does not meet **Exhibit A** milestones or otherwise fails to make sufficient progress as to endanger, in Energy Trust's sole judgment, complete and timely performance of the responsibilities set forth in this Agreement;
- (iii) Fails to reach Commercial Operation of the Project by the Commercial Operation Date deadline indicated in **Section 2.B**; or

- (iv) Becomes insolvent, bankrupt, or is otherwise unable to pay its bills.

**B.** Energy Trust may terminate this Agreement, without cause and for convenience, upon thirty (30) days of written notice to the City.

**C.** If the agreement between Energy Trust and the Oregon Public Utility Commission is terminated, Energy Trust may, upon 60 days' written notice, terminate this Agreement or assign Energy Trust's rights under this Agreement to a party acceptable to the Oregon Public Utility Commission.

**D.** **Sections 9, 14 and 16** of this Agreement, and any other obligations or duties that by their nature extend beyond the termination of this Agreement, will survive termination of this Agreement.

**16. Miscellaneous**

**A. Severability.** If any provision of this Agreement or the application of any such provision to a party or circumstances shall be determined by any court of competent jurisdiction to be invalid, illegal or unenforceable to any extent, the remainder of this agreement shall remain in full force and effect, unless such construction would be unreasonable.

**B. Headings; Counterparts; Non-Waiver.** The headings in this Agreement are for reference only and shall not affect the meaning, construction or interpretation of this Agreement. This Agreement may be executed in one or more counterparts, all of which taken together will constitute one and the same agreement. The failure or refusal of a party to enjoin any breach or violation of any provision of this Agreement will not be a waiver of, consent to, or excuse for any other, different or subsequent breach or violation of the same or any other provision.

**C. Integration and Amendment.** This Agreement supersedes all other agreements between the Parties relating to the Project and contains their entire understanding as to its subject matter. No amendment to this Agreement will be effective unless it is in writing and signed by duly authorized representatives of the Parties. This Agreement will not be varied, supplemented, qualified or interpreted by any prior course of dealing between the Parties or by any usage of trade.

**D. No Third-Party Beneficiaries.** This Agreement is made and entered into for the sole protection and legal benefit of the Parties, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with this Agreement.

**E. Disclaimer of Warranties.** The City acknowledges and agrees that Energy Trust has not made any representations and has specifically DISCLAIMED any and all warranties, express or implied, with respect to the generator to be installed, the amount of any energy savings or energy generation, if any, to be realized by the City from the Project, the quality of specific materials, components, or workmanship utilized in the installation, or the



nature of or whether building permit(s) or governmental approval(s) may be required.

**F. Force Majeure.** Notwithstanding anything contained in this Agreement to the contrary, neither Party will be deemed liable or to be in default for any delay or failure in performance under this Agreement deemed to result from acts of God, acts of civil and military authority, acts of public enemy, war, or any like cause beyond the Parties' reasonable control; provided that the Party claiming such relief shall immediately (i) notify the other Party in writing of the force majeure event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such event, (iii) notify the other Party in writing of the cessation or termination of such event, and (iv) resume performance of its obligations under this Agreement as soon as practicable thereafter.

**G. Arbitration.** Any disputes which may arise under this Agreement and which cannot be resolved by the Parties through good faith negotiation will be, in order to ensure rapid and economical resolution, submitted to final and binding arbitration in Portland, Oregon before Arbitration Service of Portland, Inc. ("ASP") according to its rules, provided, however, that (i) any dispute where the amount in controversy is less than \$50,000 will be resolved before a single arbitrator, and (ii) the parties remain free to agree in connection with any particular dispute that they may arrange for arbitration outside of ASP. Any arbitration award will be treated as confidential information.

**H. Governing Law; Attorney's Fees and Costs.** This Agreement shall be exclusively governed by and construed in accordance with the laws of the state of Oregon, without regard to any conflicts of laws or rules. In the event that any party initiates proceedings to enforce this Agreement or enjoin its breach, each party shall pay its own attorney fees and costs at arbitration, trial and on any appeal.

**I. Hazardous Materials.** Energy Trust and its representatives shall have no responsibility for the discovery, presence, handling, removal, or disposal of or exposure of persons to hazardous materials of any kind in connection with the Project, or Project Site, including without limitation asbestos, asbestos products, PCBs, or other toxic substances.

**J. Limitation of Liability; Indemnity.** Energy Trust's liability to the City is limited to recovery of amounts due for the incentive payment described and under no circumstances will Energy Trust be liable for any further amount whatsoever. While Energy Trust may provide incentive funding to the City pursuant to this Agreement, Energy Trust is not supervising the installation or performance of the Project, nor is Energy Trust responsible in any way for the completion of that work. In no event will Energy Trust be liable pursuant to this Agreement, to the City or to any third party for any damages, whether characterized as general, special, direct, indirect, punitive, consequential, or otherwise. To the extent permitted by law, the City will indemnify and defend the Energy Trust and its directors, officers, employees, agents, representatives, and affiliates (the "Energy Trust Indemnified Parties")

and hold them harmless from and against any and all losses, liabilities, damages, claims, suits, actions, judgments, assessments, costs and expenses, including without limitation interest, penalties, attorney fees, any and all expenses incurred in investigating, preparing, or defending against any litigation, commenced or threatened, or any claim related to receipt of the incentive payment, and any and all amounts paid in settlement of any claim or litigation asserted against, imposed on, or incurred or suffered by any of them, directly or indirectly, as a result of or arising from (i) negligent or wrongful acts or omissions of the City, (ii) any material breach of this Agreement by the City, (iii) any finding, judgment or other determination by a court of competent jurisdiction or settlement whereby Energy Trust is deemed or considered to be the employer of the City or its personnel, or (iv) construction, operation or maintenance of the Project.

**K. Tax Liability.** Energy Trust is not responsible for any tax liability which may be imposed as a result of any incentives provided to the City under this Agreement. Energy Trust is not providing tax advice, and any communication by Energy Trust is not intended or written to be used, and may not be used, for the purpose of avoiding penalties under the Internal Revenue Code.

**L. Relationship of the Parties.** Nothing in this Agreement is intended to, nor shall be construed as, creating a joint venture, partnership or similar arrangement between Energy Trust and the City, and no party shall be deemed, or hold itself out to be the agent of any other party.

**M. Integration of Recitals.** The Recitals, as provided above, are incorporated into this Agreement.

**N. Notices.** Notices required by this Agreement must be in writing and will be deemed effective upon receipt, if delivered in person, or three days after being sent to the other Party by U.S. Certified Mail, return receipt requested, or when a confirmation of successful transmission is generated by the transmitting machine if sent by facsimile or electronic mail, to the person and addresses or numbers listed below or to such other persons and addresses or numbers as may be designated by a Party through written notice to the other Party.

**If to Energy Trust:**

Energy Trust of Oregon, Inc.  
421 SW Oak Street, Suite 300  
Portland, OR 97204  
Attn: Legal/Contracts  
Phone: 503.493.8888  
Email: legal@energytrust.org

**If to the City:**

City of Tualatin  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062  
Attn:  
Phone:  
Email:

**17. Authority**

Each of the individuals signing below represents and warrants that he or she has been properly authorized by his or her respective organization to enter into this Agreement and that by their signatures each of the Parties does intend and is hereby legally bound

under the terms of this Agreement.

EXECUTED IN DUPLICATE effective as of the Effective Date.

ENERGY TRUST:

Energy Trust of Oregon, Inc.

CITY:

City of Tualatin

By:

Print name:

Title:

Date:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By:

Print name:

Title:

Date:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **Exhibit A**

### **Project Description**

The City of Tualatin City Services Center pressure reduction valve (PRV) micro-hydropower project is located at the City Services Center (CSC) in Tualatin, Oregon, which is owned by the City of Tualatin. This renewable energy project would harness excess energy that is currently wasted at an existing PRV to generate clean electricity to be net-metered with PGE.

The City proposes to install a 56-kW hydropower turbine and induction generator at the existing municipal drinking water PRV located at the CSC. The pump-as-turbine, generator and regeneration drive will run in parallel with an existing PRV that reduces the line pressure of water delivered from the Bull Run River intake to commercial and residential customers in the area. The hydropower equipment will be installed in a new above-ground enclosure, along with other equipment planned for the project including controls, switchgear, piping, and appurtenant electrical components. The project includes plans for electrical configuration necessary for a future energy resilience configuration: facility energy resilience in the case of a grid outage – loss of power from PGE.

Water flowing through the CSC PRV is initially diverted from the Bull Run River and treated at the Bull Run Treatment Plant. This water is diverted into a combination of three conduits to a connection point with the City's water distribution system. The intake has traveling screens and strainers to prevent intrusion of debris, fish, and wildlife into the treatment plant.

Accounting for year-round operation, RE Custom Solutions staff calculated that this project will generate approximately 171 megawatt hours (MWh) of renewable electricity per year, which will be net metered with PGE pursuant to Chapter 860 of the Oregon Administrative Rules.